

1 NORMAN L. SMITH [SBN 106344]
nsmith@swsslaw.com
2 EDWARD J. MCINTYRE [SBN 80402]
emcintyre@swsslaw.com
3 ALISON L. PIVONKA [SBN 156977]
apivonka@swsslaw.com
4 SOLOMON WARD SEIDENWURM & SMITH, LLP
401 B Street, Suite 1200
5 San Diego, California 92101
Telephone: (619) 231-0303
6 Facsimile: (619) 231-4755

7 Attorneys for HANSEN BEVERAGE COMPANY

8

9
10 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11

12 HANSEN BEVERAGE COMPANY, a
Delaware corporation,

13 Plaintiff,

14 v.

15 VITAL PHARMACEUTICAL, INC. aka VPX,
a Florida corporation,

16 Defendant.

17

18

19

20

21

22

23

24

25

26

27

28

FILED

08 AUG 21 PM 12:32

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *EE*

DEPUTY

CASE NO.

08 CV 1545 WQH BLM

COMPLAINT FOR FALSE ADVERTISING
IN VIOLATION OF THE LANHAM ACT,
CALIFORNIA BUSINESS & PROFESSIONS
CODE §§ 17200 AND 17500

AND

JURY TRIAL DEMAND

PREAMBLE

1 This case involves a seller of energy drinks who, instead of allowing its products to
 2 speak for themselves in the marketplace, resorted to false advertising in order to try to boost
 3 its own position and diminish Hansen's. The Lanham Act and California law provide
 4 Hansen with remedies for the false advertising that has harmed its commercial interests.
 5

PARTIES**Plaintiff.**

8 1. Hansen Beverage Company is a Delaware corporation, licensed to do business
 9 in California, with its principal place of business in Corona, California.
 10 2. Since 1992, Hansen has developed, marketed, sold, and distributed non-
 11 alcoholic beverages such as sodas, fruit juices, energy and sports drinks, smoothies,
 12 lemonades, and iced teas.

Defendant.

14 3. Vital Pharmaceuticals, Inc., aka VPX is, Hansen is informed and believes, a
 15 Florida corporation with its principal place of business in Davie, Florida. Vital
 16 Pharmaceuticals conducts business in this district.
 17 4. Vital Pharmaceuticals commercially advertises and markets in interstate
 18 commerce competing energy drinks, each of which it publicly claims and represents, *inter*
 19 *alia*, produces seven hours of energy.

JURISDICTION

21 5. Because this civil action arises under the Lanham Act, 15 U.S.C. §§ 1051, et
 22 seq., and specifically 15 U.S.C. § 1125(a)(1)(B), this Court has jurisdiction pursuant to
 23 15 U.S.C. § 1121, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

24 6. This Court also has subject matter jurisdiction pursuant to the provisions of
 25 28 U.S.C. § 1332(a)(1) in that it is a civil action between citizens of different states, namely,
 26 California and Delaware and Florida, and the amount in controversy exceeds \$75,000,
 27 exclusive of interest and costs.

28 7. Finally, this Court has subject matter jurisdiction over Hansen's California

1 unfair competition and false advertising claims pursuant to 28 U.S.C. § 1338(b), in that these
 2 claims are joined with a substantial related claim under the Lanham Act and this Court also
 3 has supplemental jurisdiction over the state-law claims pursuant to 28 U.S.C. § 1337(a).

4 **VENUE**

5 8. Venue in this district is proper pursuant to the provisions of 28 U.S.C.
 6 § 1331(b).

7 **MATERIAL ALLEGATIONS**

8 **Hansen.**

9 9. Hansen's energy drinks have been extremely successful and are sold
 10 throughout the United States by more than 100,000 retail stores, including convenience
 11 stores, gas stations, supermarkets, club stores, drug stores and warehouse stores.

12 10. In 1997 Hansen introduced Hansen's® Energy Drinks.

13 11. Then, in April 2002, Hansen released the first of its popular Monster Energy®
 14 drinks. The line of Monster Energy® drinks has since grown to include the Lo-Carb Monster,
 15 Monster Khaos, Monster Assault, Monster M-80, Monster Heavy Metal, and Monster Mixxd
 16 energy drinks, which also use the Monster and Monster Energy® trademarks and similar
 17 trade dresses.

18 12. In 2004, Hansen introduced Lost® Energy™ Drinks and Rumba™. In 2005,
 19 Hansen introduced Joker Mad Energy™ drinks, a low-carb version of Lost® under the Perfect
 20 10™ brand name as well as a new Lost® Five-O™ energy drink.

21 13. In 2006 Hansen introduced Ace™ Energy drinks and Unbound Energy® drinks.

22 14. Hansen's energy drinks have achieved significant success in commerce
 23 throughout the United States and are favored energy drinks for millions of customers.

24 **Vital Pharmaceuticals.**

25 15. Vital Pharmaceuticals' "REDLINE Power Rush! 7-Hour Energy Boost", Redline
 26 Xtreme and Redline Princess drinks are competing energy-drink products that Vital
 27 Pharmaceuticals markets and sells in interstate commerce throughout the United States.

28 16. Vital Pharmaceuticals advertises its "REDLINE Power Rush! 7-Hour Energy

1 Boost", Redline Xtreme and Redline Princess drinks in commercial advertising across the
 2 United States.

3 17. Rather than engage in fair competition in the marketplace, however, and allow
 4 consumers to exercise their own choice, Vital Pharmaceuticals has resorted to false
 5 advertising to attempt to promote its "REDLINE Power Rush! 7-Hour Energy Boost", Redline
 6 Xtreme and Redline Princess drinks and falsely to discourage customers from using or
 7 purchasing Hansen's energy drinks.

8 **The False Advertising Claims.**

9 18. Indeed, the name, "REDLINE Power Rush! 7-Hour Energy Boost," is, in and of
 10 itself, false and misleading precisely because it states, or at a minimum implies, that two and
 11 a half ounces of a "REDLINE Power Rush! 7-Hour Energy Boost" drink produces a sustained
 12 level of "energy" for seven hours. This is untruthful based on the drink's ingredients and
 13 generally accepted principles of biochemistry, pharmacology and physiology.

14 19. Vital Pharmaceuticals conspicuously makes the following claims on each
 15 "REDLINE Power Rush! 7-Hour Energy Boost" drink's container:

- 16 • "7 Hours of Pure Energy"
- 17 • "No crash"
- 18 • "Zero Sugar/Zero Carbs"
- 19 • "Vitamins & Amino Acids"

20 20. Vital Pharmaceuticals' claims on the product containers that REDLINE Power
 21 Rush! 7-Hour Energy Boost products provide "7 Hours of Pure Energy," and "No Crash" are
 22 based on its ingredients, at least as disclosed on the applicable product container labels,
 23 false and misleading based on generally accepted principles of biochemistry, pharmacology
 24 and physiology and cannot and do not produce the effects claimed.

25 21. Vital Pharmaceuticals' advertisements claim:

26 So goes the saying, "big things come in small packages," with seven, that's
 27 right seven hours of sustained energy that will leave you "amped" to the max
 28 in minutes, ready to tear apart the weights and wear out the treadmill like a
 tiger released from its cage! With no crash Redline Power Rush® doesn't stop
 there, the intense energy will last beyond your workout to keep you focused
 and energized throughout the day.

- 1 • 7 Hours of Sustained Energy
- 2 • No crash
- 3 • Zero Sugar
- 4 • Zero Carbs

5 22. Vital Pharmaceuticals' claim that REDLINE Power Rush! 7-Hour Energy Boost
 6 provides "seven, that's right seven hours of sustained energy is, based on the drink's
 7 ingredients and generally accepted principles of biochemistry, pharmacology and
 8 physiology, a false and misleading statement of material fact about REDLINE Power Rush! 7-
 9 Hour Energy Boost ®.

10 23. Vital Pharmaceuticals' claim that REDLINE Power Rush! 7-Hour Energy Boost
 11 "will leave you 'amped' to the max in minutes, ready to tear apart the weights and wear out
 12 the treadmill like a tiger released from its cage!" is, based on the drink's ingredients and
 13 generally accepted principles of biochemistry, pharmacology and physiology, a false and
 14 misleading statement of material fact about REDLINE Power Rush! 7-Hour Energy Boost ®.

15 24. Vital Pharmaceuticals' claim that REDLINE Power Rush! 7-Hour Energy Boost
 16 "with no crash Redline Power Rush® doesn't stop there, the intense energy will last beyond
 17 your workout to keep you focused and energized throughout your day" is, based on the
 18 drink's ingredients and generally accepted principles of biochemistry, pharmacology and
 19 physiology, false and misleading statements of material fact about REDLINE Power Rush! 7-
 20 Hour Energy Boost ®.

21 25. Vital Pharmaceuticals conspicuously makes the following claims on its web
 22 site regarding its REDLINE Xtreme drink:

23 Redline Xtreme is now university research proven to amplify your
 24 performance!

25 University research scientist discovered that Redline delivered:

- 26 • A significant 7.5% improvement reaction time!
- 27 • A dramatic 13% increase in energy!
- 28 • An amazing 15% increase in focus!

29 Whether you are reacting to a 100 MPH pitch or a 120 MPH tennis serve,
 30 juking a player on the football field or delivering a knock out ultimate
 31 fighting blow, reaction time is the key to winning performance. Victory is

1 determined in fractions of a second. So use the power of Redline Extreme to
 2 give you a mind blowing performance boost by increasing reaction time by
 3 7.5%. To further ensure victory, Redline Xtreme dramatically enhances focus
 4 and energy.

5 26. Vital Pharmaceuticals' claim that REDLINE Xtreme provides "7.5%
 6 improvement reaction time!", "dramatic 13% increase in energy!" or "an amazing 15%
 7 increase in focus!" and that it "dramatically enhances focus and energy" is, based on the
 8 drink's ingredients and generally accepted principles of biochemistry, pharmacology and
 9 physiology, a false and misleading statement of material fact about REDLINE Xtreme.

10 27. Vital Pharmaceuticals conspicuously makes the following claims on its web
 11 site regarding its REDLINE Princess drink:

12 Redline Princess, however, provides women with the same level of energy as
 13 original Redline, but with the added bonus of appetite suppression and mood
 14 enhancement which is nothing short of euphoric.

15 Cutting-edge compounds formulated in Princess work synergistically to burn
 16 fat and increase mood and mental focus, while decreasing appetite.

17 28. Vital Pharmaceuticals' claim that REDLINE Princess provides "mood
 18 enhancement" and provides "increase mood and mental focus" is, based on the drink's
 19 ingredients and generally accepted principles of biochemistry, pharmacology and
 20 physiology, a false and misleading statement of material fact about REDLINE Princess.

21 29. Vital Pharmaceuticals' claim that REDLINE Princess provides "appetite
 22 suppression and mood enhancement which is nothing short of euphoric" is, based on the
 23 drink's ingredients and generally accepted principles of biochemistry, pharmacology and
 24 physiology, a false and misleading statement of material fact about REDLINE Princess.

25 30. The statements quoted above are false and misleading statements of material
 26 fact about Vital Pharmaceuticals' own products, such that they are likely to influence the
 27 purchasing decisions of a substantial number of reasonable consumers and actually deceive
 28 or have the tendency to deceive a substantial segment of the reasonable consumer audience.

29 31. All such statements constitute false advertising that Section 43(a) of the
 30 Lanham Act, 15 U.S.C. § 1125(a), and also California's unfair competition law, Business &

1 Professions Code §§ 17200 and 17500, prohibit.

2 32. Worse, the effect such advertising has, and will have, on reasonable
3 consumers makes Vital Pharmaceuticals' false claims about itself and its false statements
4 about Hansen energy drinks even more pernicious.

FIRST CLAIM FOR RELIEF

[FALSE ADVERTISING—VIOLATION OF 15 U.S.C. § 1125(a)]

7 33. Hansen incorporates by this reference paragraphs 1 through 32, above.

8 34. Hansen sells beverages in interstate commerce throughout the United States.

9 35. Vital Pharmaceuticals sells its "REDLINE Power Rush! 7-Hour Energy Boost"

10 products in interstate commerce throughout the United States and it competes with Hansen's

11 energy drinks.

12 . . . 36. Vital Pharmaceuticals engages in commercial advertising in interstate
13 commerce across the United States.

14 37. Vital Pharmaceuticals' advertisements contain false and misleading statements
15 of fact concerning its own product.

16 38. Vital Pharmaceuticals' false and misleading commercial advertising in
17 interstate commerce violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), in that: it
18 contains false and misleading statements of fact in commercial advertising about its own
19 products and about Hansen's products; those representations are material; they are likely to
20 influence the purchasing decision of a substantial number of reasonable consumers; those
21 misrepresentations actually deceive or, at a minimum, have the tendency to deceive a
22 substantial segment of the reasonable consumer audience; and, Hansen has been injured,
23 and in the future is likely to continue to be injured, as a result of the misrepresentations,
24 both by the direct diversion of sales from Hansen to Vital Pharmaceuticals and by a
25 lessening of the goodwill associated with Hansen's products.

26 39. As a direct and proximate result, Hansen has suffered injury and harm and will
27 continue to suffer such harm, including money damages in excess of \$75,000, exclusive of
28 interest and costs, the exact amount of which Hansen will prove at trial.

1 40. Hansen is informed and believes that Vital Pharmaceuticals' false and
2 misleading advertising is willful.

3 41. Hansen has no adequate remedy at law with respect to Vital Pharmaceuticals'
4 future false and misleading commercial advertising precisely because Hansen is informed
5 and believes that Vital Pharmaceuticals will continue in its same course of conduct unless
6 and until it has been restrained by an order of this Court.

7 **SECOND CLAIM FOR RELIEF**

8 **[FALSE ADVERTISING—CALIFORNIA LAW]**

9 42. Hansen incorporates by this reference paragraphs 1 through 41, above.

10 43. Vital Pharmaceuticals' conduct, as alleged above, violates the misbranding
11 provisions of the Federal Food, Drug and Cosmetic Act, 21 USC §§ 343 and 350, which
12 make the false or misleading labeling of, *inter alia*, dietary and vitamin supplements
13 unlawful and illegal.

14 44. In addition, Vital Pharmaceuticals' conduct, as alleged above, violates § 5 of
15 the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), in that it constitutes an unfair
16 method of competition in or affecting commerce and unfair and deceptive acts and practices
17 in or affecting commerce.

18 45. Vital Pharmaceuticals' conduct, as alleged above, constitutes false advertising
19 and unfair competition pursuant to the provisions of Business & Professions Code §§ 17200
20 and 17500.

21 46. As a direct and proximate result, Hansen has suffered injury and harm and will
22 continue to suffer injury and harm both by the direct diversion of sales from Hansen to Vital
23 Pharmaceuticals and by a lessening of the goodwill associated with Hansen's products.

24 47. Hansen has no adequate remedy at law with respect to Vital Pharmaceuticals'
25 future false and misleading commercial advertising precisely because Hansen is informed
26 and believes that Vital Pharmaceuticals will continue in its same course of conduct unless
27 and until it has been restrained by an order of this Court.

28 WHEREFORE, Hansen Beverage Company prays for relief against Vital

1 Pharmaceuticals as follows:

2 1. For preliminary and permanent injunctive relief against Vital Pharmaceuticals
3 pursuant to 15 U.S.C. §§1116 and 1125(a) and Business & Professions Code § 17203;
4 2. For an award of money damages;
5 3. For the recovery of Vital Pharmaceuticals' illegal and unjust profits;
6 4. For three times Hansen's actual money damages;
7 5. For a finding that Vital Pharmaceuticals' conduct constitutes an exceptional
8 case, such that Hansen is entitled to its attorneys fees in addition to its costs and expenses of
9 suit;
10 6. For disgorgement of Vital Pharmaceuticals' illegal and unjust profits;
11 7. For punitive and exemplary damages; and,
12 8. For such other and further relief as this Court deems just and proper.

13

14 DATED: August 21, 2008

SOLOMON WARD SEIDENWURM & SMITH, LLP

15

16 By: 

17 NORMAN L. SMITH
18 EDWARD J. MCINTYRE
19 ALISON L. PIVONKA
20 Attorneys for Hansen Beverage Company

DEMAND FOR JURY

21 Hansen Beverage Company demands a jury trial of all claims triable by a jury.

22 DATED: August 21, 2008

SOLOMON WARD SEIDENWURM & SMITH, LLP

23

24 By: 

25 NORMAN L. SMITH
26 EDWARD J. MCINTYRE
27 ALISON L. PIVONKA
28 Attorneys for Hansen Beverage Company

**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

**# 154335 - MB
* * C O P Y * *
August 21, 2008
12:32:49**

Civ Fil Non-Pris
USAO #: 08CV1545 CIVIL FILING
Judge.: WILLIAM Q HAYES
Amount.: \$350.00 CK
Check#: BC3539

Total-> \$350.00

**FROM: HANSEN BEVERAGE COMPANY VS
VITAL PHARMACEUTICAL AKA VPX**

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

HANSEN BEVERAGE COMPANY, a Delaware corporation

DEFENDANTS

VITAL PHARMACEUTICAL, INC., aka VPX, a Florida corporation

08 AUG 21 PM 12:30

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY, U.S. DISTRICT OR
COUNTY, U.S. DISTRICT OR CIRCUIT COURT

OF RESIDENCE OF PLAINTIFF

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'08 CV 1545 WQH BLM

(c) Attorney's (Firm Name, Address, and Telephone Number)

Norman L. Smith (SBN 106344)

Edward J. McIntyre (SBN 80402)

Solomon Ward Seidenwurm & Smith, LLP

401 B Street, Suite 1200, San Diego, CA 92101

Telephone: (619) 231-0303; Facsimile: (619) 231-4755

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 890 Other Statutory Actions	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motion to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 540 Mandamus & other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
PROPERTY RIGHTS				
			<input type="checkbox"/> FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

1 Original 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Section 1125 (a) (1) (B)

Brief description of cause:
False advertising in violation of Lanham Act, Business & Professions Code Sections 17200 and 17500 and Trade Libel

VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMAND \$
COMPLAINT: UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S)
IF ANY

(See instructions):

JUDGE Irma E. Gonzalez

DOCKET NUMBER 08-CV-1166

DATE

August 21, 2008

FOR OFFICE USE ONLY

RECEIPT # 197335

AMOUNT \$350.00

APPLYING IFFP

JUDGE

MAG. JUDGE

SIGNATURE OF ATTORNEY OF RECORD

EDWARD J. MCINTYRE

CSDJS44